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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,733	07/31/2001	John Kroeker	57622-045 (ELZK-5)	2704

7590 09/27/2007

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EXAMINER	
AZAD, ABUL K	
ART UNIT	**PAPER NUMBER**
2626	

MAIL DATE	DELIVERY MODE
09/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/918,733	KROEKER ET AL.	
	Examiner	Art Unit	
	ABUL K. AZAD	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5-13,26,28,29 and 33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5-13,26,28,29 and 33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on August 8, 2007.

2. Claims 1, 5-13, 26, 28, 29 and 33 are pending in this action.

3. The applicant's arguments with respect to claims 1, 5-13, 26, 28, 29 and 33 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 5-13, 26, 28, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartosik et al. (US 6,725,194) in view of Papineni et al. (US 6,246,981).

As per claim 1, Bartosik teaches, "a speech recognition system comprising":

"a speech recognition device which receives an audio response from said respondent over a communication device and conduct a speech recognition analysis of said audio response to automatically produce a corresponding text response" (Fig. 1, elements 2, 42, 45);

"a storage device for storing said audio response as it is received by said speech recognition device" (Fig. 1, element 23).

"an accuracy determination device for automatically comparing said text response to a text set of expected responses and determining whether said text response corresponds to one of said expected responses, wherein said accuracy is configured and arranged to determine whether said text response corresponds to one of said expected responses within a predetermined accuracy confidence parameter and to flag said audio response so as to produce a flagged audio response for further review by a human operator when said text response does not correspond to one of said expected responses within said predetermined accuracy confidence parameter" (col. 6, lines 7-16 and col. 9, lines 1-62); and

"a human interface device for enabling said human operator to hear said audio response and review the corresponding text response for the flagged audio response to determined the actual text response for the flagged response, either by selecting from a predetermined list of text response or typing the actual text response if no such match exists in the predetermined list of responses" (col. 6, lines 27-54).

Bartosik does not explicitly teach, "a querying device for posing at least one query to a respondent" and communication device is a telephone. However, Papineni teaches, "a querying device for posing at least one query to a respondent" (Fig. 1, DM response) and communication device is a telephone (col. 14, lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Papineni's teaching in the invention of Bartosik because Papineni teaches his

invention provides a more versatile interface for interacting with users (col. 1, lines 9, 10).

As per claim 5, Bartosik teaches, "wherein said human interface device comprises a personal computer including a monitor for enabling the human operator to view said text response and an audio speaker device for enabling the operator to listen to said flagged audio response" (Fig. 1, elements 4 and 34).

As per claims 6 and 7, Bartosik does not explicitly teach, "wherein said querying device includes a program having an application file, said application file including code which causes the at least one query to be posed to the respondent, a list of expected responses and an address at which a file containing the received audio response will be stored in the storage device". However, Papineni teaches, "wherein said querying device includes a program having an application file, said application file including code which causes the at least one query to be posed to the respondent, a list of expected responses and an address at which a file containing the received audio response will be stored in the storage device" (col. 6, lines 51-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Papineni's teaching in the invention of Bartosik because Papineni teaches his invention provides a more versatile interface for interacting with users (col. 1, lines 9, 10).

As per claim 8 and 9, Bartosik teaches, "wherein said human interface device includes a graphical user interface on which the operator views said text set of expected responses wherein, after listening to said audio response, the human operator is able to select one of said expected responses from said text set of expected response if the

operator determines that the response corresponds to one of said expected responses" (col. 6, lines 47-56).

As per claim 10 and 11, Bartosik teaches, "wherein said graphical user interface comprises an application navigation window for enabling the operator to navigate through said text set of expected responses, and an audio navigation window for enabling the operator to control playback of said audio response" (col. 6, lines 47-66).

As per claim 12 and 13, Bartosik teaches, "wherein said graphical user interface includes a text entry window which enables the operator to enter a text response if none of said expected responses from said text set of expected responses corresponds to said audio response" (col. 6, lines 17-36).

As per claims 26, 28, 29 and 33, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1 and 5-13.

Response to Arguments

6. The applicant argues, "Applicants disagree as Bartosik is not understood as teaching (or suggesting) flagging of an audio response in the way claimed by Applicants. Papineni even goes as far as stating its invention focuses on the dialog manager and script and not the described speech recognizer or text-to-speech synthesizer. See Papineni, col. 8, lines 12- 18. Papineni clearly does not teach or suggest, e.g. an audio response in the event a predetermined confidence parameter is not met. As a result, Papineni fails to cure the noted deficiencies of Bartosik relative to the Applicants' claims."

The examiner disagrees with the applicant's assertion because as previously examiner stated that Bartosik teaches, above limitation at col. 6, lines 7-16 and col. 9, lines 1-62 as indicated in the claim rejection. Particularly here claimed "produce a flagged audio response" reads on "in the text comparing means is determined a minimum value MW for the correspondence indicator CI", "expected response" reads on "possible text information PTI", and claimed "text response" reads on "recognized text information RTI".

In response to applicant's argument that the cited combination of Banosik and Papineni (regardless of whether the references are considered together or separately) is an improper basis for a rejection, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

7. In response to examiner assertion the applicant responded that Applicants disagrees with the Examiner's interpretation as Bartosik itself explains a key difference between it and Applicants' claims: namely, that the systems and methods of Bartosik derive a numerical value (the correspondence indicator CI) that is used for the adjustment of a speech coefficient indicator SKI during operation in a training mode - this correspondence indicator (CI) is not used to flag an audio response in the way claimed by Applicants.

The examiner's position is same as before, that is the examiner believe (CI) is used by Bartosik to flag an audio response in the way claimed by Applicant.

Conclusion

8. This is a RCE of applicant's Application No. 09/918,733. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Patric Edouard**, can be reached at **(571) 272-7603.**

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to: **(571) 273-8300.**

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 17, 2007

Abul K. Azad
Primary Examiner
Art Unit 2626